

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARK MYERS,	:	Case No. 1:17-cv-311
Plaintiff,	:	Judge Michael R. Barrett
vs.	:	<u>ANSWER TO CROSSCLAIM OF</u>
JASON MIZE, et al.,	:	<u>DEFENDANT JIM NEIL</u>
Defendants	:	
	:	
	:	

Now comes the Defendant Jim Neil, individually and in his official capacity as the Hamilton County Sheriff, by and through counsel, and hereby answers Defendant Jason Mize's Crossclaim as follows:

FIRST DEFENSE

1. Sheriff Neil admits the allegations in paragraph 1 of the Crossclaim.
2. Sheriff Neil admits the allegations in paragraph 2 of the Crossclaim.
3. Sheriff Neil admits the allegations in paragraph 3 of the Crossclaim.
4. Sheriff Neil admits the allegations in paragraph 4 of the Crossclaim.
5. Sheriff Neil admits the allegations in paragraph 5 of the Crossclaim.
6. Sheriff Neil admits the allegations in paragraph 6 of the Crossclaim.
7. Sheriff Neil is without knowledge to answer the allegations in paragraph 7 of the Crossclaim.
8. Sheriff Neil is without knowledge to answer the allegations in paragraph 8 of the Crossclaim.
9. Sheriff Neil denies the allegations in paragraph 9 of the Crossclaim.

10. Sheriff Neil denies the allegations in paragraph 10 of the Crossclaim.
11. Sheriff Neil denies the allegations in paragraph 11 of the Crossclaim.
12. Sheriff Neil admits that Plaintiff has sued Defendants.
13. Sheriff Neil admits that the June 2, 2017 letter informed Defendant Mize he would not be receiving legal representation from the Hamilton County Prosecutor's Office and denies that such representation is required by ORC § 2744 as alleged in paragraph 13 of the Crossclaim.
14. Sheriff Neil denies the allegations in paragraph 14 of the Crossclaim.
15. Sheriff Neil denies the allegations in paragraph 15 of the Crossclaim.
16. Sheriff Neil incorporates by reference the responses in paragraphs 1 through 15.
17. Sheriff Neil denies the allegations in paragraph 17 of the Crossclaim.
18. Sheriff Neil admits the allegations in paragraph 18 of the Crossclaim.
19. Sheriff Neil denies the allegations in paragraph 19 of the Crossclaim.
20. Sheriff Neil denies the allegations in paragraph 20 of the Crossclaim.
21. Sheriff Neil denies the allegations in paragraph 21 of the Crossclaim.
22. Sheriff Neil incorporates by reference the responses in paragraphs 1 through 21.
23. Sheriff Neil denies the allegations in paragraph 23 of the Crossclaim.
24. Sheriff Neil admits the allegations in paragraph 24 of the Crossclaim.
25. Sheriff Neil denies the allegations in paragraph 25 of the Crossclaim.
26. Sheriff Neil denies the allegations in paragraph 26 of the Crossclaim.

SECOND DEFENSE

27. Sheriff Neil denies each and every allegation of the Crossclaim not previously expressly admitted to be true.

THIRD DEFENSE

28. The Crossclaim fails to state a claim upon which relief can be granted.

FOURTH DEFENSE

29. Any actions taken by Sheriff Neil which may have affected Defendant Mize, directly or indirectly, were in the execution of Sheriff Neil's duties as provided by law, and were undertaken in good faith, with probable cause and without malice.

FIFTH DEFENSE

30. Defendant's liability, if any, are the direct and proximate result of actions or failures to act on his own part or on the part of parties other than Sheriff Neil and for whom Sheriff Neil is not responsible according to law.

SIXTH DEFENSE

31. Punitive damages may not be imposed on Hamilton County under state or federal law.

SEVENTH DEFENSE

32. Sheriff Neil hereby asserts all applicable immunities and defenses available under Ohio Revised Code Chapter 2744.

EIGHTH DEFENSE

33. Sheriff Neil is immune from liability at common law and under both state and federal law, as any action undertaken by Sheriff Neil which may have affected Defendant Mize was undertaken in good faith, with probable cause and/or in the execution of duties as provided by law.

NINTH DEFENSE

34. Defendant has failed to exhaust administrative agency remedies.

TENTH DEFENSE

35. This Court lacks jurisdiction over the subject of the Crossclaim.

ELEVENTH DEFENSE

36. Defendant Mize's claims are barred by the applicable statute(s) of limitations.

TWELFTH DEFENSE

37. This Court lacks jurisdiction over the "person" of Sheriff Neil.

THIRTEENTH DEFENSE

38. Sheriff Neil is protected by absolute or qualified immunity.

FOURTEENTH DEFENSE

39. Sheriff Neil hereby provides notice that they intends to assert and rely upon all affirmative defenses, immunities, avoidances, counterclaims, cross-claims and/or third party claims, which become available or apparent during the course of discovery or trial, and he hereby reserves the right to amend his Answer to the Crossclaim to assert any and all such defenses, immunities, avoidances, counterclaims, cross-claims, and/or third party claims.

WHEREFORE, having fully answered, Sheriff Neil demands that Defendant Mize's Crossclaim be dismissed, with prejudice and at Defendant Mize's cost, and that the Court grant Sheriff Neil such further relief as it deems just and proper under the circumstances of the cause.

Respectfully submitted,

JOSEPH T. DETERS
PROSECUTING ATTORNEY
HAMILTON COUNTY, OHIO

/s/ Cooper D. Bowen
Jerome A. Kunkel, 0035962
Cooper D. Bowen, 0093054
Assistant Prosecuting Attorneys
Hamilton County, Ohio

230 E. Ninth Street, Suite 4000
Cincinnati, OH 45202
Ph (513) 946-3000
FAX: (513) 946-3018
TRIAL ATTORNEYS FOR DEFENDANT
SHERIFF JIM NEIL

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Answer was filed electronically on the 6th day of September, 2017 with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Cooper D. Bowen
Assistant Prosecuting Attorney

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